

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Jeffrey A. Heyser,

Complainant,

vs.

AT&T Communications of California, Inc.,

Defendant.

Case 01-08-022  
(Filed August 14, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING  
DENYING MOTION TO SET ASIDE SUBMISSION  
AND PERMITTING THE MOTION AND RESPONSE  
TO BE CONSIDERED SUPPLEMENTAL BRIEFING**

This ruling denies Complainant's Motion to Set Aside Submission Under Rule 84 and Reopen the Proceeding to Take Additional Evidence. Both the motion and AT&T Communications of California, Inc.'s (AT&T) response clarify argument presented in Complainant's brief and AT&T's reply brief. Since these pleadings clarify rather than demonstrate the need to take additional evidence, this ruling permits the motion and AT&T's response to be considered supplemental briefing on the issue of what sanctions and/or other relief should be ordered if a violation [of AT&T's intrastate tariffs] is found. This proceeding was previously submitted on receipt of reply briefs on May 24, 2002. Because this ruling accepts supplemental briefing, this proceeding will be deemed submitted on June 27, 2002, the date AT&T filed its response.

Complainant's motion requests reopening for additional evidence to disprove a statement made in AT&T's reply brief that Complainant fabricated the number of AT&T One-Rate Calling Card customers who have changed to another carrier. Complainant alleges that AT&T's statement misled the Commission in violation of Rule 1. AT&T responds that the Commission should deny the motion, because it is Complainant's statement that is misleading, the data is beyond the scope of this proceeding, and Complainant had the data three months before this case was submitted. Taken out of context, AT&T's statement could be construed as questioning the integrity of Complainant rather than presenting argument contrary to Complainant's position. The motion and response clarify the opposing sides of the argument and could assist resolution of this complaint. The exact number of customers who changed from AT&T to another carrier in 2000 and 2001 is not necessary to resolve the complaint. Therefore, it is not necessary to reopen the proceeding to take additional evidence, but the motion and response should be considered as supplemental briefing on the issue of remedies.

**IT IS RULED** that:

1. Complainant's Motion to Set Aside Submission Under Rule 84 and Reopen the Proceeding to Take Additional Evidence is denied.
2. Complainant's Motion and AT&T's Response will be deemed supplemental briefing.
3. This proceeding will be deemed submitted on June 27, 2002.

Dated July 19, 2002, at San Francisco, California.

/s/ Janice Grau  
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Janice Grau  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion to Set Aside Submission and Permitting the Motion and Response to be Considered Supplemental Briefing on all parties of record in this proceeding or their attorneys of record.

Dated July 19, 2002, at San Francisco, California.

/s/ Antonina V. Swansen  
Antonina V. Swansen

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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